## IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

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)	CIVIL ACTION FILE NO.:
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)	
)	[Removed from
)	The State Court of
)	Dekalb County;
)	Civil Action File No.
)	22A03589]
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## **DECLARATION OF DEFENDANT JAMES PROVOST**

1.

I am over the age of eighteen; and this declaration is based on my personal knowledge.

2.

I have read the Complaint filed in the above captioned legal action and I understand that plaintiff Kenyon Duncan alleges that he slipped and fell on March 13, 2021 while at the Walmart store located at 4725 Ashford Dunwoody Road in Dunwoody, Georgia ("the store").

3.

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Exhibit

D

Upon information and belief, the subject incident actually occurred on June 29, 2021.

4.

I was <u>not</u> the Store Manager for the Store at any time during March 2021 or June 2021.

5.

Upon information and belief, I was the store manager at the Store from around December 2017 to February 2021.

6.

I did not witness Plaintiff's incident and I was not in the Store where Plaintiff's incident occurred when it occurred.

7.

I have never personally owned or leased the Store. I have only been previously employed as a Walmart manager in the Store performing specific job duties. I have never agreed to accept complete control or custody of the Store.

8.

I have never had legal authority to sign any lease for the premises where the Store operates.

9.

I have never had any individual or personal right of possession to the premises of the Store.

10.

I have never personally employed anyone who has worked on the premises of the Store. I have never been personally responsible for the payment of any wages or salary to anyone employed at the Store.

11.

I did not create the policies, procedures, and training materials used by Walmart as part of its efforts to inspect and maintain the Store in March 2021 or June 2021.

12.

I have never been personally in charge of or personally responsible for performing any repair or maintenance services for the Store.

13.

I have never agreed to assume or in any way undertaken personal liability for the payment of any property taxes, or any other taxes, upon the Store.

14.

I have never assumed or undertaken any liability for or been personally responsible for any business license fees or other governmental fees required for the operation of the Store.

15.

I have never determined the hours of operation for the Store.

16.

I have never agreed to accept any personal legal duty to Plaintiff Duncan.

17.

I did not have any constructive or actual knowledge of any alleged hazardous conditions in the store on the date of the incident as I was not employed at the Store when the incident occurred.

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I state, declare and affirm that the foregoing facts set forth in this Declaration are true and correct.

Signed on this 220d day of February, 2023.

James Provost